

**Ronald Wastewater District**

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Growth Management Planning Council
% Paul Reitenbach
King County DDES

RE: King County Countywide Planning Policies

Dear Mr. Reitenbach:

On behalf of the Board of Commissioners of Ronald Wastewater District, I write now to provide needed input on the 2011 Update of King County Countywide Planning Policies. Because the Growth Management Act (GMA) does not clearly identify cities as the sole provider of all urban services or of sewer/water services¹, we strongly believe that Section PFS-3 should either be removed or amended so as not to be misleading. It could be amended as shown below.

"Cities and special purpose districts have been and currently are the appropriate providers of services to the UGA, ~~either directly or by contract~~. Extend urban services specifically through the use of special districts ~~only~~ where there are agreements with the city in whose Potential Annexation Area the extension is proposed. ~~Within the UGA, as time and conditions warrant, cities will assume local urban services provided by special service districts.~~"

There is no question that school districts, fire districts, sewer/water districts, and many other special purpose districts provide important public services in King County and throughout all of the United States. The section entitled *Collaboration Among Jurisdictions* in the *KC CPPs: Public Facilities and Services Chapter* forthrightly states, "More than 100 special purpose districts, including water, sewer, flood control, stormwater, fire, school and others, provide essential services to the residents of King County."

However, the section then erroneously states that "cities are the primary provider of services in the UGA...." In King County, some districts are and have been for many decades the first,

¹*Districts as Provider of Sewer and Water Service in Urban Growth Areas Under the Growth Management Act.* Source unknown at this time. (Copy included with this letter.)

Working for Environmental Protection

A special purpose district formed pursuant to RCW title 57

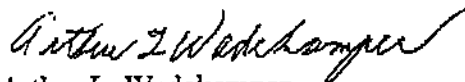
primary, and only provider of these essential services in unincorporated areas and incorporated cities, and in some cases they have been providing these services long before those cities were incorporated.

Where contracts between cities and special districts exist, it makes economic and political sense to extend services via the special purpose district. They are focused on providing their service at the least cost with the greatest efficiency. Cities often struggle to provide other needed services such as roads and social services to potential annexation areas.

There is no need for King County Planning Policy to stipulate what cities will or will not do regarding special purpose districts. Cities should not be forced to assume all local urban services, such as water, sewer, flood control, stormwater, fire, school and others when they are not equipped, prepared, or willing to do so, and certainly not without a vote of the people.

We are confident that King County will seriously consider these and other like comments and remove the ambiguity from its planning policy document, and either eliminate or amend PFS-3.

Sincerely,



Arthur L. Wadekamper
President, Board of Commissioners

cc: Board of Commissioners

**DISTRICTS AS PROVIDERS OF SEWER AND WATER SERVICE
IN URBAN GROWTH AREAS UNDER THE GROWTH MANAGEMENT ACT**

1. Introduction.

Relying generally on the Growth Management Act, cities sometimes argue that cities, rather than districts, must provide sewer and water service within urban growth areas. Despite this city argument, the GMA does not clearly identify cities as the sole provider of such services.

To take over all or a part of a district, a city uses a procedure called "assumption of jurisdiction." Cities often are unaware that an assumption is not automatic and must be reviewed and approved by boundary review boards in counties that have such boards. The GMA, however, authorizes counties to disband boundary review boards after adoption of GMA comprehensive plans and development regulations consistent with the plans, jeopardizing the review process for determining whether an assumption is appropriate.

2. Districts as providers of sewer and water service -- Growth Management Act.

a. GMA definitions of urban growth and urban governmental services.

Under the GMA, counties planning under the GMA must designate urban growth areas, within which urban growth shall be encouraged and outside of which growth can occur only if it is not urban in nature. RCW 36.70A.110. Every city constitutes an urban growth area. *Id.* Urban growth typically requires urban governmental services. RCW 36.70A.030(14). The term "urban governmental services" includes sewer, storm and domestic water systems. *Id.*

b. GMA references to cities as providers of urban governmental services.

i. Definition of "urban governmental services."

RCW 36.70A.030(16) states that "urban governmental services" include "those services historically and typically delivered by cities," and lists these types of services, which include "storm and sanitary sewer systems" and "domestic water systems." This definition merely describes the types of services that constitute "urban governmental services"; it neither limits the types of services which fall within the definition, nor restricts the services to a specific type of provider, such as a district or a city.

ii. Discussion of providers of urban governmental services.

The original RCW 36.70A.110(3), relating to providers and appropriateness of urban governmental services in rural areas, stated as follows:

It is appropriate that urban government services be provided by cities, and urban government services should not be provided in rural areas.

Laws of 1990 1st ex. sess. ch. 17 sec. 3. The word "appropriate" means "proper; fitting." The American Heritage Dictionary. The statute quoted above, therefore, may be interpreted as stating that it is "proper and fitting" for cities to provide sewer and water service in urban growth areas. This interpretation leaves room for an interpretation that such services may be provided by sewer and water districts, in both the short term and the long term. Unfortunately, in one of its early decisions rendered in 1993, the Central Puget Sound Growth Management Hearings Board stated as follows:

CPPs [county wide planning policies] have both an immediate purpose and a long term purpose. The immediate purpose is to assure consistency among the comprehensive plans that the GMA requires to be adopted by July 1, 1993. The long term purpose of county-wide planning policies is to facilitate the transformation of local governance in urban growth areas so that urban governmental services are provided by cities and rural and regional services are provided by counties. That which is urban should be municipal. Over time, counties are to become divested of urban service delivery responsibilities and invested with responsibilities for regional policy making and service delivery, and will retain responsibility for providing rural services.

Cities of Poulsbo, Port Orchard and Bremerton v. Kitsap County, CPSGPHB Case No. 92-3-0009, p. 124. Because county wide planning policies must be consistent with the GMA, the Board by inference interpreted RCW 36.70A.110(3) as authorizing only one provider of urban governmental services in the long term: cities.

In its 1995 session, however, the Legislature amended RCW 36.70A.110(3) by expressly authorizing urban growth in new fully contained communities, and allowing urban governmental services to be extended to or expanded in rural areas under some circumstances. Laws of 1995 ch. 400 sec. 2. Importantly, the legislature also amended the reference to cities as follows:

In general, cities are the units of local government most appropriate to provide urban governmental services.

Id. The new language shifts the focus from the appropriateness of one type of provider to a description of one type of provider, and then modifies the description of one type of provider by stating that it is only the appropriate

provider "in general." The new language, therefore, arguably is an express declaration that other types of providers, such as districts, also may be appropriate providers of services. Admittedly, the intent of the Legislature is not clear, but there certainly is an argument that the Legislature intended to emphasize that districts may be appropriate providers of service in the long term, thereby superseding the unfortunate pro-city language of the Hearings Board case discussed above.

3. **Boundary review board review of assumptions.** RCW Chapter 35.13A, relating to city assumption of water and sewer districts, does not contain a requirement for boundary review board approval of assumptions. For this reason, cities often forget that assumptions are subject to boundary review approval pursuant to RCW 36.93.090, which provides in relevant part that:

Whenever any of the following described actions are proposed in a county in which a board has been established, the initiators of the action shall file within one hundred eighty days a notice of intention. . . The board may review any such proposed actions pertaining to: . . . (2) The assumption by any city or town of all or part of the assets, facilities, or indebtedness of a special purpose district which lies partially within such city or town.

Although the statute quoted above states that the board "may" review the proposed action, the term "may" in the context of the statute and the entire chapter relating to boundary review board activities means that the notice must be filed, but that if no specified entity or number of persons requests the board to hold a hearing, the action will be deemed approved by the board. A district is one of the entities that is authorized to request a hearing.